

In the Matter of	)	
	)	
Amendment of Part 95 of the	)	RM-10564
Commission's Rules to	)	
Establish a Very Short Distance	)	
Two-way Voice Radio Service	)	

October 17, 2002

The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”) respectfully submits its comments in response to the Petition for Rule Making filed by the Industrial Telecommunications Association (ITA) regarding permissible use of Family Radio Services (“FRS”) frequencies.<sup>1</sup> The Association urges the Commission to clarify whether business communications are permitted in the FRS and, if not, to correct FCC Rule Section 95.401 and any other relevant provision of the Commission’s rules to reflect that determination.

## **I. INTRODUCTION**

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association’s members include trunked and conventional 800 MHz and 900 MHz operators, licensees of wide-area SMR systems and commercial licensees in the 220 MHz and 450-512 MHz bands. The majority of AMTA’s members also are radio dealers engaged in the sale and servicing of a variety of wireless communications devices, including those used in the unlicensed FRS. To the extent there is ambiguity in the Commission’s rules regarding the activities that may be conducted on FRS frequencies, and, therefore, the parties that are eligible users on this spectrum, radio dealers are not able to provide their customers with the information needed to make an informed decision in their selection of wireless devices. Given the growing interest in FRS equipment by a range of prospective users, it is appropriate that the FCC address this matter promptly.

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<sup>1</sup>*Public Notice*, ITA Petition for Rule Making, Report No. 2576 (rel. Sept. 17, 2002).

## II. DISCUSSION

There is little doubt that the Commission intended the FRS spectrum to be used for family, recreational and other non-business related activities. As described in ITA's Petition, the FCC identified a range of personal, family, sporting, and other recreational-type activities that would be facilitated by the use of FRS equipment. The Executive Summary of the Report and Order in which this service was established stated the following:

This new service will help fill a market niche in short distance, personal communication needs. The FRS will enable families, friends and associates to communicate among themselves within neighborhoods and while on group outings.<sup>2</sup>

The Commission also noted specifically that, "...the FRS would fill a narrow market niche unmet by traditional private land mobile radio services or common carriage communications providers."<sup>3</sup> Thus, it appears clear that the FCC envisioned the FRS as serving a unique communications need, closely related to personal and familial safety.<sup>4</sup>

The Commission's expectations have been met. The combination of low-cost, broadly available equipment and no FCC licensing requirement has fueled the continued growth of the FRS. However, if the FCC's intent was to limit the service to the types of non-business activities identified in the Report and Order, the expanded use of FRS for business communications could result in the disenfranchisement of the very individuals and groups whose needs were intended to be served. If business organizations with relatively short-range communications requirements turn

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<sup>2</sup>*Report and Order*, WT Docket No. 95-102, 11 FCC Rcd 12977 at ¶ 2 (1996).

<sup>3</sup>*Id.* at ¶ 4.

<sup>4</sup>The Report and Order anticipated that, "The FRS would enhance public and personal safety and service to individuals, including individuals with disabilities and parents wanting to keep in touch with their children." *Id.* at ¶ 5. Although this purpose was important in 1996 when the rules were adopted, the events of the past year have underscored the absolute necessity of maintaining reliable, available communications paths for that purpose.

to the FRS, the limited spectrum allocated to the service will become increasingly congested. Moreover, as noted in the Petition, unlike family and group communications that tend to be sporadic, business use more typically is constant and is likely to use a disproportionate amount of the FRS airtime available in any community on any given day. To the extent commercial entities have alternative spectrum on which their requirements can be satisfied, it would be unfortunate if their use of FRS results in its diminished availability for family and group activities.

The Petition requests the FCC to initiate a rule making proceeding to address this issue, seemingly on the theory that Section 95.401(a) which permits business activities in the Citizens Band Radio Services is applicable to the FRS. AMTA is not certain that is the case or that a further rule making is required to clarify the point.

Part 95 of the FCC Rules is entitled “Personal Radio Services”, not Citizens Band Radio Services. The Citizens Band Radio Services are simply a sub-category within Part 95, as are other services such as FRS and Wireless Medical Telemetry Services, each of which has regulations specific to its particular purpose. Arguably, the problem identified by ITA would be resolved if the FCC simply corrected Section 95.401 to label it, in AMTA’s opinion accurately, as “What are the Personal Radio Services?”, or, preferably, to move this section to the beginning of Part 95 as a definitional section. This correction also would resolve any uncertainty as to whether the provisions of Sections 95.402 through 95.428 actually apply to all of the services included under the CB heading in Section 95.401, which they clearly do not. Presumably this misappellation is simply a remnant of the time when the Part 95 services were confined to various classes of what generically were called CB services. Correcting this oversight should be a matter of internal housekeeping by the Commission, and should not require a notice and comment rule making proceeding.

### **III. CONCLUSION**

It is important that the FCC clarify whether the FRS may be used for business, as opposed to personal, family and recreational group activities. If it is not intended for that purpose, as indicated in the Commission's discussion in the Report and Order establishing the service, then the current FCC Rule Section 95.401 is, at best, confusing and, at worst, inaccurate. AMTA agrees that this issue warrants clarification so that the public, including businesses and those who distribute wireless equipment to all segments of the radio using-public, understand the permissible uses of various FCC services and radio equipment.